

### **REMARKS/ARGUMENTS**

This Amendment and Response is responsive to the Office action dated June 3, 2008, setting forth a shortened three-month statutory period for reply expiring on September 3, 2008. This response is submitted on December 3, 2008, along with a petition for a three-month extension of time.

The Assignee thanks the Examiner for reviewing this application and issuing an Office action.

#### **I. Claim Rejections Under 35 U.S.C. § 102**

The Office Action rejects claims 32-38 and 40 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,673,177 to Szymiski (Szymiski '177) in view of U.S. Patent No. 5,046,723 to Szymiski (Szymiski '723) and U.S. Patent No. 5,031,912 to Vaughn et al. (Vaughn).

As a preliminary matter, the Assignee notes that the basis for the rejection set forth in the Office action is improper as the stated rejection relies on an alleged combination of three references. Such a rejection would only be proper under 35 U.S.C. § 103(a). As such, the Assignee will respond as if the rejection were set forth as being under 35 U.S.C. § 103(a).

Also, as a preliminary manner, the Office Action alleges that Szymiski '177 "discloses an exercise bicycle comprising: a frame 10, a means for storing rotational energy 82 supported by the frame, the means for storing rotational energy comprising a flywheel; a means for driving 20 the means for storing rotational energy; and a means for releasably coupling 91 the means for driving the means for storing rotational energy to the means for storing rotational energy in either one of forward and rearward directions." The Assignee notes that none of the pending claims present this claim language.

The Office Action alleges that the features recited independent claim 32 are disclosed in the cited references. However, the Assignee respectfully submits that the applied references fail to teach or suggest at least a slave sprocket that is circumferentially mounted in engagement with a one way bearing and a clutch that is positioned to engage with the slave sprocket and the flywheel, as recited in amended claim 32.

The Assignee notes that Szymiski '177 does not involve a sprocket. Szymiski '177 discloses a reduction gear transmission means 60, which "may have a gear ratio of substantially 5:1 for rotatably driving a vertically disposed output shaft 66." (col. 3, lines 64-66; col. 4, lines 10-13) Thus, the resistance freewheel mechanism of Szymiski '177 involves gears, but does not

involve a sprocket. Gears and sprockets are different mechanical structures. Gears are meshed together with other gears, whereas sprockets are meshed with chains, tracks or other perforated or indented material.

Thus, the Assignee respectfully submits that Szyski '177 cannot reasonably be considered to teach or suggest a clutch that is positioned to engage with the slave sprocket and the flywheel, as recited in amended claim 32. The Assignee respectfully notes that the portions of Szyski '177 quoted by the Office Action do not make any reference to a sprocket. While Szyski '177 discloses a flywheel 82 and a clutch bearing assembly 86 (one way clutch), Szyski '177 cannot possibly teach or suggest anything with regard to an interrelation of such elements with a sprocket as a sprocket is entirely absent from the disclosure of Szyski '177.

Further, the Assignee respectfully submits that Szyski '177 cannot reasonably be considered to teach or suggest a slave sprocket circumferentially mounted in engagement with a one way bearing, at least because Szyski '177 fails to disclose a sprocket. Moreover, the Assignee notes that Szyski '177 specifically teaches that the hub 83 of the flywheel 82 is fitted internally with the clutch bearing assembly 86. (col. 4, lines 33-35) The Assignee respectfully submits that such structure is incompatible with this feature recited in claim 32.

As Vaughn is cited only for its disclosure of other structure, such as a Bellville washer in a clutch, and Szyski '723 provides no specific structure allegedly missing from Szyski '177, the Assignee respectfully submits that neither Vaughn nor Szyski '723 remedies the shortcomings of Szyski '177 discussed above. In particular, the Assignee notes that the Vaughn also does not disclose a sprocket, and that Szyski '723 only provides disclosure regarding a frame of a bicycle. Thus, using the frame of Szyski '723 or adding the Bellville washer of Vaughn in the structure taught by Szyski '177 could not result in the foregoing features recited in independent claims 32.

Therefore, the Assignee respectfully submits that any permissible combination of Szyski '177, Szyski '723 and Vaughn would not achieve all of the features recited in independent claim 32. The Assignee respectfully submits that claims 33-38 and 40 are each patentable over any permissible combination of Szyski '177, Szyski '723 and Vaughn at least in view of the patentability of claim 32 from which they variously depend, as well as for the additional features they recite.

For example, with respect to claims 34, 35, 37 and 38, the Office Action only alleges that "utilizing threaded connections is common in the exercise art and would have been obvious in

Szyski . . . for securement of the clutch and spring tensioner to the axle." This, however, does not address the specific features claimed as threaded, but apparently contends that all threaded connections are obvious. The Assignee respectfully disagrees with such an overreaching contention.

Moreover, as the alleged combination of references modifies Szyski in view of Vaughn, the Assignee respectfully submits that alleged modification taught by Vaughn would be to include a spring tensioner in the form of a knob 23. However, the knob 23 taught by Vaughn is mounted on the end of a shaft 22, which is threaded at the other end. (Vaughn, col. 2, lines 35-36) The knob 23 must be fixedly mounted to the shaft 22 to operate as taught by Vaughn (to rotate the shaft 22 clockwise and counterclockwise) to increase and decrease the tension provided by the Belleville spring 30. Thus, the teachings of Vaughn are contrary to the Office Action's allegation with respect to dependent claims 34 and 35.

With respect to dependent claims 37 and 38, the Assignee respectfully points out that the Office Action's allegation regarding "threaded connections" does not address the recited features of these claims. Moreover, as none of the applied references disclose a sprocket, as discussed above, the Assignee respectfully submits none of the applied references can possibly teach or suggest anything with regard to an interrelation of elements with a sprocket.

With respect to dependent claim 40, the Office Action alleges that the claimed features are "considered an obvious design choice well recognized by artisans in the axle and wheel alignment arts." The Assignee respectfully disagrees and requests that a reference be cited in support of this allegation. Further, the Assignee respectfully points out that the recited flange does not relate to alignment of an axle and a wheel, but to centering of a Belleville washer about and axle housing.

## **II. Claim Rejections Under 35 U.S.C. § 103**

The Office Action rejects claim 39 under 35 U.S.C. § 103(a) over Szyski '177 in view of Szyski '723 and Vaughn, and further in view of U.S. Patent No. 3,955,764 to Phaup.

As Phaup is cited on for its disclosure of polyethylene washers, the Assignee respectfully submits that claim 39 is patentable over any permissible combination of Szyski '177, Szyski '723, Vaughn and Phaup at least in view of the patentability of claim 32 from it depends.

### III. Conclusion

In view of the foregoing, the Assignee respectfully requests reconsideration and withdrawal of the rejections. The Assignee believe that the pending claims and the application are in condition for allowance and respectfully requests the same. Should the Examiner believe that any issues remain that may be resolved to place the application in a better condition for allowance, the Examiner is invited to contact the Assignee's undersigned representative at the telephone number listed below.

This Amendment is submitted with a petition for a three-month extension of time in accordance with 37 C.F.R. § 1.136(a). Accordingly, please charge Deposit Account No. 04-1415 in the amount of \$1110.00 for the three-month extension of time fee. The Applicant believes no further fees or petitions are required. However, if any such petitions or fees are necessary, please consider this a request therefor and authorization to charge Deposit Account No. 04-1415 accordingly.

Respectfully submitted,

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By

  
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